

DEANER, DEANER, SCANN, MALAN & LARSEN

Susan Williams Scann, Nev. Bar No. 776
720 S. Fourth Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 382-6911
Facsimile: (702) 366-0854

HENNIGAN, BENNETT & DORMAN LLP

J. Michael Hennigan (admitted *pro hac vice*)
hennigan@hbdlawyers.com
Bruce Bennett (admitted *pro hac vice*)
bennettb@hbdlawyers.com
Lauren A. Smith (admitted *pro hac vice*)
smithl@hbdlawyers.com
Peter J. Most (admitted *pro hac vice*)
most@hbdlawyers.com
865 South Figueroa Street, Suite 2900
Los Angeles, California 90017
Telephone: (213) 694-1200
Facsimile: (213) 694-1234

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

AVENUE CLO FUND, LTD., et al.,

Plaintiffs,

vs.

BANK OF AMERICA, N.A., et al.,

Defendants.

) Case No. 09-CV-01047-KJD-PAL
)

) **RULE 41(A)(1) DISMISSAL BY CERTAIN**
) **PLAINTIFFS**
)

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 41(a)(1), plaintiffs Babson CLO
Ltd. 2004-I; Babson CLO Ltd. 2004-II; Babson CLO Ltd. 2005-I; Babson CLO Ltd. 2005-II;

1 Babson CLO Ltd. 2005-III; Babson CLO Ltd. 2006-I; Babson CLO Ltd. 2006-II; Babson CLO Ltd.
2 2007-I; Artus Loan Fund 2007-I Ltd.; Babson Loan Opportunity CLO, Ltd.; Sapphire Valley CDO
3 I, Ltd.; JFIN CLO 2007 Ltd.; and Jefferies Finance CP Funding LLC ("Babson Plaintiffs") hereby
4 voluntarily dismiss this action without prejudice. The First Amended Complaint was filed on
5 July 21, 2009. At this time no defendant has answered or filed a summary judgment motion. This
6 voluntary dismissal by the Babson Plaintiffs in no way modifies or affects the remaining plaintiffs'
7 prosecution of their claims against defendants.

8
9 DATED: September 4, 2009

DEANER, DEANER, SCANN, MALAN
& LARSEN

Susan Williams Scann, Nev. Bar No. 776
720 S. Fourth Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 382-6911
Facsimile: (702) 366-0854

HENNIGAN, BENNETT & DORMAN LLP

J. Michael Hennigan (admitted *pro hac vice*)
Bruce Bennett (admitted *pro hac vice*)
Lauren A. Smith (admitted *pro hac vice*)
Peter J. Most (admitted *pro hac vice*)
865 S. Figueroa Street, Suite 2900
Los Angeles, California 90017
Telephone: (213) 694-1200
Facsimile: (213) 694-1234

10
11
12
13
14
15
16
17
18
19
20 By: /s/ Peter J. Most

Peter J. Most
Attorneys for Plaintiffs

PROOF OF SERVICE

I declare as follows:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 865 South Figueroa Street, Suite 2900, Los Angeles, California 90017. On September 4, 2009, I served the foregoing document described as **RULE 41(a)(1) DISMISSAL BY CERTAIN PLAINTIFFS** on the interested parties in this action as follows:

- ☐ by transmitting via facsimile the documents listed above to the fax number set forth below on this date. This transmission was reported as complete without error by a transmission report issued by the facsimile machine upon which the said transmission was made immediately following the transmission. A true and correct copy of the said transmission is attached hereto and incorporated herein by this reference.
- ☒ by placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.
- ☐ by electronic transmission. I caused the document(s) listed above to be transmitted by electronic mail to the individuals on the service list as set forth below.
- ☐ by placing the document listed above in a sealed envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for Delivery.
- ☐ by personally delivering the document listed above to the persons at the address set forth below.

PLEASE SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postal meter date is more than one day after date of deposit for mailing in affidavit.

Executed on September 4, 2009 at Los Angeles, California.

☐ I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.


Olivette C. Sasser

SERVICE LIST

Attorneys/Firms:	Representing:
<p> Dennis L. Kennedy, Esq. Sarah E. Harmon, Esq. BAILEY KENNEDY 8984 Spanish Ridge Avenue Las Vegas, NV 89148-1302 Telephone: (702) 562-8820 Facsimile: (702) 562-8821 </p> <p>-and-</p> <p> Thomas C. Rice, Esq. David Woll, Esq. Justin S. Stern, Esq. SIMPSON THACHER & BARTLETT LLP 425 Lexington Avenue New York, NY 10017 Telephone: (212) 455-2000 Facsimile: (212) 455-2502 </p>	<p> Defendants JP Morgan Chase Bank, N.A., Barclays Bank PLC, Deutsche Bank Trust Company Americas, and The Royal Bank of Scotland PLC </p>
<p> Rodney M. Jean, Esq. LIONEL SAWYER & COLLINS 300 South Fourth Street, Suite 1700 Las Vegas, NV 89101 Telephone: (702) 383-8888 Facsimile: (702) 383-8845 </p> <p>-and-</p> <p> Bradley J. Butwin, Esq. Jonathan Rosenberg, Esq. Daniel L. Cantor, Esq. William J. Sushon, Esq. O'MELVENY & MYERS LLP Times Square Tower Seven Times Square New York, NY 10036 Telephone: (212) 326-2000 Facsimile: (212) 326-2061 </p>	<p> Defendants Bank of America, N.A. and Merrill Lynch Capital Corporation </p>

Attorneys/Firms:	Representing:
<p> Randolph Howard, Esq. Peter Navarro, Esq. KOLESAR & LEATHAM, CHTD. 3320 West Sahara Avenue, Suite 380 Las Vegas, NY 89102 Telephone: (702) 362-7800 Facsimile: (702) 362-9472 </p> <p>-and-</p> <p> Jean-Marie L. Atamian, Esq. Jason I. Kirschner, Esq. MAYER BROWN LLP 1675 Broadway New York, NY 10019-5820 Telephone: (212) 506-2500 Facsimile: (212) 262-1910 </p>	<p>Defendant Sumitomo Mitsui Banking Corporation</p>
<p> Anthony L. Paccione, Esq. KATTEN MUCHIN ROSENMAN LLP 575 Madison Avenue New York, NY 10022 Telephone: (212) 940-8800 Facsimile: (212) 940-8776 </p>	<p>Defendant Bank of Scotland</p>